

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON APPROPRIATIONS

Call to Order: By **CHAIRMAN ROSALIE (ROSIE) BUZZAS**, on March 2, 2005 at 8:00 A.M., in Room 102 Capitol.

ROLL CALL

Members Present:

Rep. Rosalie (Rosie) Buzzas, Chairman (D)
Rep. Carol C. Juneau, Vice Chairman (D)
Rep. John E. Witt, Vice Chairman (R)
Rep. Eve Franklin (D)
Rep. Ray Hawk (R)
Rep. Cynthia Hiner (D)
Rep. Verdell Jackson (R)
Rep. Joey Jayne (D)
Rep. Christine Kaufmann (D)
Rep. Ralph L. Lenhart (D)
Rep. Penny Morgan (R)
Rep. John L. Musgrove (D)
Rep. Rick Ripley (R)
Rep. Jon C. Sesso (D)
Rep. Janna Taylor (R)
Rep. Jack Wells (R)

Members Excused: Rep. Tim Callahan (D)
Rep. John Sinrud (R)

Members Absent: Rep. Bill E. Glaser (R)
Rep. Walter McNutt (R)

Staff Present: Marcy McLean, Committee Secretary
Jon Moe, Legislative Branch

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: HB 60, 2/22/2005; HB 181,
2/22/2005; HB 379, 2/22/2005; HB
392, 2/22/2005; HB 393, 2/22/2005;
HB 417, 2/22/2005; HB 482,
2/22/2005; HB 713, 2/22/2005

HEARING ON HB 60**Opening Statement by Sponsor:**

REP. CHRISTOPHER HARRIS, HD 66, Bozeman, opened the hearing on **HB 60**, a bill to establish indoor cleanup standards for methamphetamine (meth)labs. For the past two sessions the Environmental Quality Council has heard from landlords about the major contamination problem when their rental was used for a meth lab. The landlords are looking for guidance and cleanup standards from the government. An amendment to this bill switches the oversight responsibility from the Department of Public Health and Human Services (DPHHS) to the Department of Environmental Quality (DEQ). He said that DEQ has some good ideas on how to approach the cleanup task.

{Tape: 1; Side: A; Approx. Time Counter: 0 - 5; Comments: Rep. Glaser entered hearing.}

Proponents' Testimony:

Linda Stoll, Montana Local Health Officers, said that one of the spin-off problems from meth use is the cleanup of the hazardous waste sites. The local health officers have recognized for several years that standards need to be established. She said that money spent by the State to fund HB 66 is necessary because this is a big public health issue.

Jim Smith, Montana Sheriffs and Peace Officers Association, Montana County Attorneys Association, said the cost of funding HB 66 is well worth the expenditure.

Harold Blattie, Montana Association of Counties, said that HB 66 is a small price to pay to accomplish something so significant.

Opponents' Testimony: None

Questions from Committee Members and Responses:

REP. JUNEAU asked **REP. HARRIS** why he did not sign the fiscal note and why the bill costs \$350,000. **REP. HARRIS** said that he agrees that this process should not cost so much and has had discussions

with DEQ about this. They should be able to lower the cost and still get the work done. He said that they would provide an updated price tag prior to the committee taking executive action.

REP. KAUFMANN said that she thinks the gap in the bill is that nobody is required to clean up anything. She said that a landlord could possibly do minimal cleanup and then rent the property for a low amount of money. The bill states that the landlord has immunity if he has notified a renter that a meth lab had been in the rental previously. She said that her concern was for the low-income renter who would rent the property because the rent is low, even though notified of the hazardous waste risks.

REP. HARRIS said that there are powerful incentives for the cleanup. He said that the landlord has to post a warning for the property, but by conducting the standardized cleanup, he is then able to rent his property again. He said that the immunity provided to the landlord is only if the cleanup work is done.

REP. RIPLEY asked if the fiscal note is correct, and rather than adding two FTEs, could they absorb the cost into the DEQ's existing budget.

{Tape: 1; Side: A; Approx. Time Counter: 5 - 14.7; Comments: Rep. McNutt entered hearing}

Ed Thamke, DEQ, said that hazardous waste cleanup is not new to the DEQ. He said that he had authored the fiscal note and feels that it is an honest and necessary cost estimate. He said that he believes they need an Occupational Health and Safety Specialist to direct this program. The second position for administrative functions needs to be able to perform outreach to the public in order to communicate with property owners, tenants and health officers. He said that he will work with **REP. HARRIS** to prepare a new fiscal note to change the FTEs from two to one and a half.

REP. SESSO said that he is concerned that the bill just establishes the standards but does not address who is responsible for doing follow-up to see that people are following these rules.

REP. HARRIS said that HB 60's simple mission is to establish procedures for cleanup of meth labs. It is not intended to address all enforcement issues associated with meth. Local authorities may need to decide if cleanup is necessary or if the property should be condemned. He said that oversight is being moved from DPHHS to DEQ because they are familiar with chemical cleanups.

CHAIRMAN BUZZAS said that she is concerned about duplication of efforts between DEQ, Department of Justice (DOJ) and local law enforcement.

REP. HARRIS said that when a meth lab is busted, the local law enforcement officials send in a team to remove the ingredients. They are not in the cleanup business. Cleanup standards are needed for the leftover chemicals in the walls, sheet rock, carpet, etc. This would allow them to rehabilitate the property so that it is no longer a danger to human health.

CHAIRMAN BUZZAS asked who does the hazardous waste cleanup. **REP. HARRIS** said that currently the landlords seek guidance from the county health department, and the answer usually is "good luck." Local officials call DPHHS and DEQ for guidance and learn that there are no standards for cleanup.

CHAIRMAN BUZZAS asked if DEQ certifies when the cleanup work is done and that the property is safe for occupancy. **REP. HARRIS** said that HB 60 sets the cleanup standards and gives DEQ the rule making authority to change the standards as new technology is developed. DEQ will certify cleanup contractors, and then the contractor certifies that the cleanup had been done based upon these standards. Once this is done, DEQ would certify the cleanup work.

REP. JUNEAU said that the bill states that they may possibly charge fees for the testing and training of contractors. She asked if these fees could be used to offset some of the costs of developing these standards. **REP. HARRIS** said that they will reflect these fees in the fiscal note, but they will probably amount to only \$5,000-\$7,000.

REP. SESSO asked if this will be an ongoing program. **REP. HARRIS** said that as long as there is a meth problem, this program will be ongoing. He said that the premise of the bill is that contaminated property should be returned to the market. DEQ will be responsible for enforcing the cleanup standards.

Closing by Sponsor:

REP. HARRIS said that he agrees with REP. KAUFMANN's request for an amendment to remove the immunity given to a landlord just for posting a notice that the meth lab has been cleaned up.

{Tape: 1; Side: A; Approx. Time Counter: 14.7 - 32.6; Comments: End Side A}

HEARING ON HB 713**Opening Statement by Sponsor:**

REP. EVE FRANKLIN, HD 24, Great Falls, opened the hearing on **HB 713**, a bill to appropriate \$1 million to a commission to conduct mission assessment and promotion of national guard and military installations. She said that the federal Base Realignment and Closure Commission (BRAC) is assessing military units to determine realignment. In 1995 Malmstrom Air Force Base lost 700 jobs due to removal of the Refueling Wing. The current BRAC assessment is more significant because they are looking at both active military and National Guard installations.

She said that this is a statewide issue, not just Great Falls. The purpose of HB 24 is to provide money to the Department of Commerce to establish the commission to study and promote military installations in Montana. The Great Falls Development Authority has raised \$350,000 of private funds to address the BRAC review. She said that the State needs to also be involved in this process because it can't afford economically to lose the military installations. Washington State is putting \$5 million into this issue, and Utah State \$2.5 million. She said that the \$1 million appropriated in this bill would be used for a strong lobbying effort in Washington D.C., promotion of the Montana military installations, identification of the State's resources, and planning.

Proponents' Testimony:

REP. JEFF MANGAN, Great Falls, said that the military installations are significant to Montana. There is no better value to money spent by the State than on this effort. Loss of the military installments would have a negative local and state impact.

Joe Briggs, Cascade County Commissioner, said that five counties depend upon Malmstrom Air Force Base for numerous things. He said that, also, there is the potential to add to military missions in Montana.

{Tape: 1; Side: B; Approx. Time Counter: 0 - 8.3}

Randy Gray, Mayor of Great Falls, said that Malmstrom Air Force Base, Air Guard and National Guard impact the State by \$400 million annually. He said that the BRAC process is to review military base realignment and closure of the 20% excess capacity. He said that means there are missions that need to be relocated elsewhere. Because of Montana's open air space and good flying weather, they should be able to attract these missions to

Montana. These missions could attract new, high-tech businesses to Montana.

Mayor Gray said that a team has been formed by the City of Great Falls, the Economic Development Corporation and the Great Falls Airport Authority to hire a Washington D.C. lobbyist. They have also hired an engineering firm to determine what types of military missions they would want to attract to Montana. They estimate that for each mission they try to attract, it will cost them approximately \$250,000. He said that their team is trying to raise \$500,000 from private and local government sources, and the \$1 million appropriation from the State would help with these efforts.

Joe Fletcher, Great Falls citizen, said that the BRAC recommendations will have far reaching economic impact on many communities around the nation. This could include Montana if we don't take a proactive stand to convince the BRAC that the Montana military units serve a vital link in the nation's defense. He said that closing military bases has a devastating effect on businesses and residential housing.

EXHIBIT(aph46a01)

Lance Olsen, Cascade County Commissioner, said that this appropriation will provide the State with a return on their investment.

{Tape: 1; Side: B; Approx. Time Counter: 8.3 - 15}

Bill Mick, Great Falls Development Corporation, said that his group has been working to create private sector jobs and that they support HB 713 because it will create public sector jobs.

Rhonda Carpenter-Wiggers, Great Falls and Helena Chambers of Commerce, said that this is a Montana issue. She said that this is an economic development issue to retain an existing Montana business that brings money into the state from outside. When Malmstrom Air Force Base lost the Refueling Wing, it was a big hit to the economy. She said that Montana needs to do spend this money because other states are already doing it.

Opponents' Testimony: None

Questions from Committee Members and Responses:

REP. MORGAN asked what our three Congressmen are doing about this issue. **REP. FRANKLIN** said that they are probably doing a great deal, but the demands are great and it also takes the State's effort.

REP. WITT said that Great Falls has raised \$350,000 in private funds and asked what was done during previous BRAC reviews.

Mayor Gray said that in previous BRAC processes there were no local private donations raised to respond. The current \$350,000 that was raised came from several Montana counties, hospitals, newspapers, banks, car dealers, etc. They recognize the economies of scale of co-basing military units, such as National Guard and Air Force. **REP. FRANKLIN** answered that the previous BRAC process was not well understood and the people who were involved did not have the financial resources. She said that she believes the State paid the price when the Refueling Wing was lost.

REP. JAYNE asked how the \$1 million appropriation would be spent by the Department of Commerce (DOC). **REP. FRANKLIN** answered that the DOC would provide more specifics on how the money will be spent.

CHAIRMAN BUZZAS said that both the Governor's Office and the DOC have economic development staff, and asked if this function could be conducted by this existing staff. **REP. FRANKLIN** said that a bill requesting \$250,000 for a federal liaison position was rejected by the Local Government Subcommittee. She said that the State needs someone who has specific military knowledge and know how to negotiate these systems.

{Tape: 1; Side: B; Approx. Time Counter: 15 - 32.6; Comments: End of Tape 1}

REP. RIPLEY asked if the \$1 million was an arbitrary amount and if they would be satisfied with a \$600,000 appropriation. **REP. FRANKLIN** said that they would take it.

Closing by Sponsor:

REP. FRANKLIN said that other regional people have been involved in this process, but they have expected Great Falls to take the lead. She said that they would work to provide more concrete information on how the appropriated money would be spent.

HEARING ON HB 392

Opening Statement by Sponsor:

REP. ROBIN HAMILTON, HD 92, Missoula, opened the hearing on **HB 392**, a bill to revise post-conviction relief appeals. He said that this bill addresses those people who feel that they have been wrongly convicted. Our slow justice system can be very frustrating, and this bill is designed to speed it up. The bill

states that once a person is convicted, they must file the petition for relief within one year. He said that he did not sign the fiscal note because he does not believe there will be additional expense to the Public Defender's office.

Proponents' Testimony:

Fred Van Valkenburg, Missoula County Attorney, Montana County Attorneys Association, said that their association requested this bill. He said that there are numerous times when people are abusing the system by filing repetitive amendments to their post-conviction relief appeals in order to extend the time for claims. People have the right to file the petitions to file claims for post-conviction relief, but they should have to do so within one year of their conviction. He said that they do not believe this will cost the State any money, because shortening the time frame should not cost any more money. He said that there are many mandates passed down to counties that county attorney's offices do not get funding for. He said that in this case, the State Public Defender's Office also should not need to receive additional money to respond to this change in law.

{Tape: 2; Side: A; Approx. Time Counter: 0 - 12.2; Comments: Rep. Callahan entered hearing}

Kirsten LaCroix, Missoula County Attorneys Office, said that passing HB 392 will give some teeth to existing statute, and decreasing the inefficient use of very limited resources. She said that this bill applies to a very narrow group of people; it only applies to defendants who have been convicted, have appealed, and most often, come back to claim that they had ineffective representation by their attorney. Many of these claims do not appear until several years after the conviction. By passing this legislation, it will help to give finality to victims.

Opponents' Testimony:

Chad Wright, Chief Appellate Defender, State of Montana, said that this bill substantially shortens the time frame for filing a post-conviction relief appeal. He said that a judge reviews an inmate's filing of post-conviction work, and if he finds it to be of merit, will appointment an attorney to investigate the claims. Historically, this review has occurred very closely to this requested one-year time frame. He said that his office is already at their maximum caseload. If they were unable to meet this one-year deadline, they would be committing malpractice. He said that in order to avoid the potential for malpractice

lawsuits against the State of Montana, they have conservatively estimated that they would need 1.5 FTEs to respond to this shortened time frame.

{Tape: 2; Side: A; Approx. Time Counter: 12.2 - 22}

William Hooks, Montana Association of Criminal Defense Lawyers, said that he was the previous Appellate Defender for the State of Montana and has done many post-conviction relief appeals. He said that an inmate files a post-conviction appeal when they think their trial was not fair, and they have the right to have it reviewed. By shortening the time frame in which they can file these appeals, it would have a substantial effect and undue burden on indigent clients.

Questions from Committee Members and Responses:

REP. RIPLEY said that this bill passed out of the Judiciary Committee without a fiscal note, and now that a fiscal note has been added, and asked where that leave the Appropriations Committee. **Jon Moe, Legislative Fiscal Division**, said that by rule, the fiscal note should have been in Judiciary, but that is not significant. He said that there would be opportunities to add this appropriation to HB 2, if the committee chooses to do so.

REP. SESSO asked if the Appellate Defender's office had requested money for this when they appeared before the subcommittee. **Chad Wright** said that they did not because it took them awhile to understand the financial impact of this bill.

{Tape: 2; Side: A; Approx. Time Counter: 22 - 32.6; Comments: End Side A}

REP. JAYNE asked about the number of post-conviction relief appeals and if the County Attorneys needed more time to respond to these appeals. **Fred Van Valkenburg** said that there are 200 convictions statewide per year, with 20-30 of those in Missoula County; statewide there are 500 felony cases and 20,000 misdemeanor cases. He said that these caseloads are overwhelming for everybody and their resources are short. However, this bill would help them to use their resources more efficiently.

REP. JUNEAU said that this bill would not apply to an inmate for whom DNA would later prove his innocence, but would this bill limit the appeal process for inmates for whom other evidence was found that might prove their innocence. **Chad Wright** said that there are provisions in the post-conviction act that the inmate could use in these situations.

REP. JUNEAU said that people who depend on public defenders don't have an attorney while they are in prison. She said that they are at a disadvantage and asked who advocates for them. **Chad Wright** said that these inmates are at a huge disadvantage. The majority of the post-convictions are filed by the inmates themselves.

Closing by Sponsor:

REP. HAMILTON said that the committee needs to decide if the one-year limit, as stated in current statute, needs to be enforced.
{Tape: 2; Side: B; Approx. Time Counter: 0 - 9.8}

HEARING ON HB 379

Opening Statement by Sponsor:

REP. JONATHAN WINDY BOY, HD 32, Fort Belknap, opened the hearing on **HB 379**, a bill to establish a trust fund for perpetual water treatment at the Zortman-Landusky mine.

EXHIBIT (aph46a02)

He said that an amendment is being introduced to change funding of this bill from the General Fund to the Orphan Share Account. He said that this amendment had substantial input from the Department of Environmental Quality (DEQ).

Proponents' Testimony:

Julia Doney, President, Fort Belknap Indian Community Council, said that they are a lot of health-related issues as a result of the Zortman-Landusky mine, and the tribe is looking for funding for long-term water treatment. The mines have tainted the water on the reservation and the surrounding communities. The DEQ and Bureau of Land Management (BLM) have both said that the water treatment will have to go on forever. Without the water treatment, surface and ground water will become contaminated by acid mine drainage. She said that the tribes have opposed these mines since they were first proposed in 1977. The State of Montana permitted these mines to be developed, and over 21 years, allowed them to increase in size from 529 acres to 1,215 acres. She said that their water will never be the same, and this contaminated water causes health problems. She said that they understand that the State has to make difficult financial decisions, but asked the committee to remember that clean water is a basic need.

EXHIBIT (aph46a03)

{Tape: 2; Side: B; Approx. Time Counter: 9.8 - 19.9}

Julie King-Kulbeck, Secretary-Treasurer, Fort Belknap Indian Council, said that lack of environmental safeguards has led to extensive cleanup problems with their contaminated water. She said that they want to be able to continue to operate the water treatment plants, with assurance of funding for perpetual operation. The acid mine drainage has caused extensive damage to their environment and caused concerns for their health and safety.

Andrew Huff, Attorney, Fort Belknap Indian Council, said that HB 379 would have no financial impact to the General Fund. Funding would come from the Orphan Share Account, which was established to deal with abandoned toxic sites. Even though this fund would be used, it would be left with a balance sufficient to take care of other obligations. The water treatment trust fund would accrue to the year 2018, and should reach about \$19 million.

{Tape: 2; Side: B; Approx. Time Counter: 19.9 - 22.9}

Tom Livers, DEQ, said that they support HB 379 as amended. They recognize the need for a perpetual water treatment system and know that they are required to have a permanent financing source in place by 2018. HB 379 will make the trust fund whole in order to provide sufficient revenue on an ongoing basis to fund water treatment into perpetuity. Some money for this cleanup came from the Pegasus Gold consent decree, but it is inadequate to meet the full costs of the operation. HB 379 would make up that shortfall, and is compatible with the purpose of the Orphan Share Fund. The consequences of this legislation is that it will cut significantly into the Orphan Share Fund, diverting \$1.2 million annually. Only \$1 million revenue would go into Orphan Share, but that should be adequate to cover current obligations.

Dean Stiffarm, Environmental Liaison, Fort Belknap
EXHIBIT(aph46a04) (power point presentation)

{Tape: 2; Side: B; Approx. Time Counter: 22.9 - 28.3}

Jeff Barbor, Montana Environmental Information Center, said that the Orphan Share Fund is the best mechanism for funding the water treatment.

Opponents' Testimony: None

Questions from Committee Members and Responses:

REP. KAUFMANN asked if the Orphan Share Fund is used for state superfund sites for companies that are no longer in existence,

then why didn't the State get the cleanup money from Pegasus Gold. **Tom Livers** said that the fund is called "orphan share" because it is funding sites that involve companies that are no longer in existence. He said that when Pegasus became bankrupt, the State had underestimated the money needed for the cleanup. The was because the information they had at the time of bankruptcy caused them to underestimate the costs and now they are unable to get additional money.

REP. SESSO said that he understood this bill address funding for the perpetual water treatment for the years 2018 and beyond. He asked what money was going to be used from now until 2018. **Tom Livers** said that they have some reclamation funds, and the BLM has provided short-term funding for water treatment costs, but they are concerned about this funding.

{Tape: 2; Side: B; Approx. Time Counter: 28.3 - 32.6; Comments: End of Tape 2}

Warren McCullough, DEQ, said that the short-term funding of \$731,000 per year, up to 2017, comes from the surety companies negotiated in the Pegasus consent decree. He said that has not been enough money, and the BLM has funded an additional \$6 million. Of that \$6 million, there remains about \$200,000.

REP. SESSO asked how the estimate for long-term perpetual water treatment costs was done. **Warren McCullough** said that the original estimate was done and filed with the bankruptcy decree. Over the past six years the State has contracted with Spectrum Engineers to manage the site. They estimated that they will need \$34 million up to the year 2018. **REP. SESSO** requested that this information be provided to the committee prior to taking executive action.

REP. JUNEAU said that Fort Belknap residents currently have to buy their drinking water and asked if this will ever stop. **Julia Doney** said that residents in the southern part of the reservation live 35 miles from the grocery store, and it is very inconvenient for them to have to purchase drinking water. She said these people should be able to drink tap water, and that is why the water treatment is necessary.

CHAIRMAN BUZZAS asked if there will ever be a solution to this problem. **Warren McCullough** said that they will need to have water treatment into perpetuity, but they are unsure of what exactly that means. Heap leach mining technology is only 35 years old and they do not know their effect over the long term.

{Tape: 3; Side: A; Approx. Time Counter: 0 - 9.7}

REP. JACKSON asked if the committee could receive the Tribe's water analysis information so they could see what chemicals are in the water. **Dean Stiffarm** said that the information presented in the power point presentation was provided by Spectrum Engineering via DEQ, and that DEQ could probably provide him with that information.

Closing by Sponsor:

REP. WINDY BOY told **REP. JACKSON** that there is a book available that provides a lot of information on the Zortman-Landusky mine water issues. He said that the current annual funding for water treatment is \$731,000, but the actual costs, since 1999, are \$1.2 million. He asked the committee for favorable consideration of HB 379.

EXHIBIT(aph46a05)

{Tape: 3; Side: A; Approx. Time Counter: 9.7 - 13.2}

HEARING ON HB 393

Opening Statement by Sponsor:

REP. SCOTT MENDENHALL, HD 77, Boulder, opened the hearing on **HB 393**, a bill to require mandatory reporting of failed drug tests by commercial motor vehicle operators to the Motor Vehicle Division. He opened the hearing by handing out a revised fiscal note prepared by the Department of Transportation. The fiscal impact has been reduced because they do not believe there will be as many administrative hearings as they had first estimated.

EXHIBIT(aph46a06)

Proponents' Testimony:

Barry Stang, Montana Motor Carriers Association, said that HB 393 was modeled after a State of Washington law. He said that employers are required to know the results of a driver's random drug test and whether or not they have failed that test. This bill would require that this information is filed with the Department of Motor Vehicles, where the employer could have access to it.

EXHIBIT(aph46a07)

Cary Hegreberg, Montana Contractors Association, said that his members supports HB 393 because their drivers have commercial drivers licenses, and they feel it will make the highways safer.

Don Hargrove, Montana Addiction Services Providers, said that his association believes that HB 393 will promote highway safety.

Dean Roberts, Montana Motor Vehicle Division, said that they support HB 393.

Opponents' Testimony: None

Questions from Committee Members and Responses:

REP. MORGAN asked what the current labor laws state about disclosing information to other people. **Barry Stang** said that there is not a problem with disclosing this information. Under the Federal Motor Carrier law, if a driver fails a drug test, that information needs to be reported to their employer. Current laws does not prohibit the employer from putting the failed test information on the driver's driving record.

CHAIRMAN BUZZAS asked if the anticipated revenue is going to be dependable, and if the appropriated funds are for a one-time expense. **Dean Roberts** said that the estimated revenue number is solid. He said that the reinstatement fee will be paid by drivers who have addressed their abuse problem and want to get back to driving. He said that it is a one-time appropriation to get this program started.

{Tape: 3; Side: A; Approx. Time Counter: 13.2 - 25.9}

Closing by Sponsor:

REP. MENDENHALL said that one company had reported that 17% of their drivers had failed the drug test, pointing out what a significant problem this is. This bill will assure that these drivers will address their problem before coming back to work.

HEARING ON HB 417

Opening Statement by Sponsor:

REP. MONICA LINDEEN, HD 43, Huntley Project opened the hearing on **HB 417**, a bill to fund two Lewis & Clark Bicentennial signature events: 1) Explore the Big Sky June 1-July 4, 2005, in the Fort Benton-Great Falls area, and 2) Clark on the Yellowstone, July 22-25, 2006, in the Billings-Pompeys Pillar area. She said that this is a once-in-a-lifetime opportunity to showcase the State of Montana, demonstrate our Montana hospitality and capitalize on the economic impact of increased tourism.

She said that all of the infrastructure is in place to host the two signature events, but the only thing missing is the funding; HB 417 requests \$1 million, \$500,000 for each event. She said that it is not included in HB 2, but that she is looking for a funding source. She thinks the money will be an investment that will reap many returns for the State.

Proponents' Testimony:

Melody Dobson, Clark on the Yellowstone, Billings, said that her groups has been preparing for this event over the past five years. Volunteers, structure, partnerships, promotions, and planning are all in place, but they lack the necessary funding. She said that they have raised \$350,000 in grants and pledges and \$713,000 of in-kind services and donations, but lack the \$500,000 needed to meet their \$1.5 million budget. This money is necessary to create an event worthy of the national recognition already given to it. She said that this money would be used to host a National Day of Honor, living history mall, Corp II, various exhibits, a Youth Fair, author's tent, and a Native American fine art market, cradle board exhibit and an encampment. She said that partnerships with cities, counties, businesses, and tribes have been created, from Livingston to the confluence of the Yellowstone, and continue to grow. The two signature events, she said, will drop tourists from around the world to explore nearly 2,000 miles of the historic Lewis & Clark Trail.

EXHIBIT (aph46a08)

***{Tape: 3; Side: A; Approx. Time Counter: 25.9 - 32.6; Comments:
End of Side A, Tape 3}***

Stephenie Ambrose Tubbs, Helena, said that this bill represents an investment in attracting future visitors to Montana. She said that she has visited many of the signature events throughout the United States, and sees that interest in Lewis & Clark is not going to disappear after the bicentennial. The other states have seen this as an opportunity to expose these visitors to the wonders of their particular state, and visitors will share this information with their friends. She said that her father, who authored Undaunted Courage, used to say that in terms of Lewis & Clark sites, Montana had the best places and stories. She said that he would be very proud of the work that has been done in Montana to prepare for the Lewis & Clark enthusiasts. The State needs to support the hard work done by the dedicated groups leading the two signature events, and that this funding will assure success of the events. Attendance at the signature event held in Bismarck, North Dakota last October attracted 50,000 visitors.

EXHIBIT (aph46a09)

Hal Stearns written testimony.

EXHIBIT(aph46a10)

{Tape: 3; Side: B; Approx. Time Counter: 0 - 5.4}

Charles Brooks, Billings Chamber of Commerce, Yellowstone County Commissioners, said that they recognize this as a strong economic development issue. He said that the interpretive center at Pompeys Pillar has had an average attendance over 50,000 the past three years. They think that the signature event will substantially increase that number. Tourism is an important industry to Montana and said that the signature events will have a statewide impact.

Dyani Bingham, Montana Tribal Tourism Alliance, said that they believe it is important to commemorate, not celebrate, the upcoming Lewis & Clark bicentennial. She said that it is a golden opportunity for the tribes to cooperate with the planning committees to facilitate tribal participation in the signature events. It gives them the opportunity to share the Indian stories with the world, serving as cultural historians and interpreters, and explain the positive and negative effects of the exploration. She said that the Native American events will give them the opportunity to promote Indian tourism and share the untold stories. She pointed out that Lewis & Clark did not encounter many Native Americans, but they were being watched and there are many stories that need to be told.

Velma Pretty On Top, Native American Development Corporation, written testimony.

EXHIBIT(aph46a11)

SEN. LANE LARSON, Billings, said that he is excited about the opportunities provided by the Clark on the Yellowstone signature event, and asked the Committee for their support.

Peggy Bourne, Explore the Big Sky, Great Falls, said that their event is going to be held in 93 days. The national designation of a signature event is:

"An event that is highly focused, capable of extra ordinary level of public awareness and international attention by virtue of its geography, historical significance, national media coverage, and the capacity of the involved parties to develop funding and implement a strong, focused program of a national stature."

She said that the planners for Explore the Big Sky have worked hard over the past three years to live up to the intent and

spirit of this definition. Now that they are three months away from their event, the financial status is marginal. There are four variables to the budget that they are constantly monitoring; if these do not come in at the required level, they will be forced to scale back the event from one of national significance to one of a local nature. She said that this would be tragic since they have marketed the event nationally and internationally, and Montana's credibility would be in jeopardy.

She said that even though they would continue to work on fund raising, the State's input of money would allow them to focus their energies on a successful execution of hosting a national event. She said that she talks to 10-15 per day who are planning to come for the Explore the Big Sky event, and they say they are also planning on exploring the rest of Montana.

Over 280 volunteers are working on this signature event and over the past three years they have formed valuable partnerships. However, the one partner missing is the State of Montana. The State's infusion of cash will ensure that the event will materialize.

EXHIBIT(aph46a12)

Jani McCall, City of Billings, said that they look forward to hosting Clark on the Yellowstone and working with the other partners. She said that it was a great opportunity to bring new visitors to Montana, boost the economic development and honor this important event. They anticipate that the events will bring about 200,000 new visitors to Montana.

{Tape: 3; Side: B; Approx. Time Counter: 5.4 - 19.8}

Mayor Randy Gray, Great Falls, said HB 417 promotes a partnership of the State with local communities to create economic development. The \$1 million investment would allow the State to deliver the products that they have advertised, and the benefits will be reaped for many years into the future.

Joe Briggs, Cascade County Commissioner, said that leveraging a national event is a good use of the State's tourism money and will reap future dividends.

Lance Olson, Cascade County Commissioner, said that these two signature events will give a good first impression to visitors.

Stuart Doggett, Montana Innkeepers Association, said that they support HB 417 because it will ensure the success of these two signature events, both for resident and non-resident visitors. In 1997 they supported the \$200,000 per year that was given to support the Lewis & Clark Bicentennial Commission. Over time,

that funding will take \$1.9 million from the accommodations tax to fund the Commission's efforts. He said that it is money that has been very well spent. The State's Travel Montana program has used the Lewis & Clark Bicentennial as their theme when marketing tourism to the State.

Aimee Grmoljez, Montana Tourism Coalition, said that there have been a lot of great partnerships to support these two events and asked for the State to support them.

{Tape: 3; Side: B; Approx. Time Counter: 19.8 - 25.8}

Rhonda Carpenter-Wiggers, Great Falls Chamber of Commerce, said that their members have been active in planning the Explore the Big Sky event. She said that they would encourage the State to become a partner to ensure the success of the event.

Opponents' Testimony: None

Informational Testimony:

Clint Blackwood, Executive Director, Lewis & Clark Bicentennial Commission, said that there are 15 national signature events scheduled from Virginia to Oregon. Scholars on the national Lewis & Clark Commission evaluated the proposals and determined which would be designated as national signature events. Montana is very fortunate to be designated to host two of these events.

Questions from Committee Members and Responses:

REP. MORGAN said that she was confused because the Fiscal Note request \$1 million, but the bill states "\$500,000." **REP. LINDEEN** said that the Fiscal Note was prepared before the amendment was added in the State Administration Committee. The intent of the amendment was to split the \$1 million request, so that \$500,000 would be appropriated in 2005 for the Explore the Big Sky event, and \$500,000 would be appropriated in 2006 for the Clark on the Yellowstone event.

REP. MORGAN asked, in referring on Line 21 of the bill, if any unused funds would go back to the Lewis & Clark Bicentennial Commission or would they be put back into the General Fund. **REP. LINDEEN** said that she assumes that all of the funds would be expended for the two events. However, any left over money would allow the Commission to fund other ongoing projects. **Clint Blackwood** said that he, too, assumes that all funds will be used. He said that any left over funds would be used by the Commission for other programs that they are funding. However, he said that they would be okay with excess funds going back into the General Fund.

***{Tape: 3; Side: B; Approx. Time Counter: 25.8 - 32.6; Comments:
End of Side B, Tape 3}***

Jon Moe, Legislative Fiscal Division, said that whether the unused funds go to the Commission or back into the General Fund, would be an option for the legislature. **REP. LINDEEN** said that on Page 1, Lines 28-29, it states that any unused funds remaining after June 2007 would revert back to the General Fund. **CHAIRMAN BUZZAS** said that the language in the bill and in the Fiscal Note regarding unexpended funds, do not match and may need to be changed.

REP. MORGAN asked what the revenue sources are for the Explore the Big Sky event, since she is aware that the Clark on the Yellowstone event is free admission. **Peggy Bourne** said that many of the 180 events are free, but some of the events require a pass, which can be purchased for \$10.

REP. MORGAN asked what they would be doing with this revenue. **Peggy Bourne** answered that their money would be used to balance their budget. The \$500,000 requested from the State would be used to cover any gaps caused by insufficient revenue.

REP. KAUFMANN asked about the event's overall budget, and if any of the State's tourism money had been considered for use in funding the events. **Peggy Bourne** said that their overall budget is \$2.9 million, which does not include the State's \$500,000 contribution. **REP. LINDEEN** said that tourism money has been used for various Lewis & Clark Bicentennial events, but only a limited amount has been used specifically for the two signature events. She said that if they had asked the State's tourism department to donate \$1 million to these events, she thinks there would have been some hard feelings.

{Tape: 4; Side: A; Approx. Time Counter: 0 - 9}

CHAIRMAN BUZZAS said it would be helpful to see their budgets in order to see how they arrived at the \$500,000 request per event. She reminded the group that the State has been supported of the Lewis & Clark Bicentennial Commission, by allocating funds in past sessions. **REP. LINDEEN** said it is true that the State has given money to the Commission, to Lewis & Clark exhibits and interpretations and to the Interpretative Center, but those monies are not specific to helping with the signature events. She said that they would provide budgets for each of the signature events.

CHAIRMAN BUZZAS asked about previous state support for the Lewis & Clark Bicentennial Commission. **Clint Blackwood** said financial support has come from the bed tax, but none of the money has come

from the General Fund. He said that the Lewis & Clark license plates have been a good source of revenue for them. They have received \$200,000 per year in bed tax money since 1998, and the license plate revenues have brought in \$750,000.

REP. JAYNE asked about tribal participation, and asked if they have an official letter of support from each tribe. **Dyani Bingham** explained that the Montana Tribal Tourism Alliance has members from each reservation and individual tribal members. She said that they do not have an official letter from each tribe, but as a non-profit, inter-tribal organization, their group fully supports the Lewis & Clark bicentennial events.

REP. JAYNE asked if it was possible for the State to provide in-kind services, such as vehicles and personnel, to support the events rather than money. **REP. LINDEEN** said whether the support came from the General Fund or from in-kind services, the State's budget still has to account for it. **Jon Moe** said he doesn't know if this could be done because it had not been done before. **REP. JAYNE** asked him to research this idea.

REP. JUNEAU said that appears that the Explore the Big Sky event has budgeted for \$1.4 million in ticket sales, whereas the Clark on the Yellowstone event has budgeted zero. **Melody Dobson** said that the Yellowstone event does not have the infrastructure to have ticketed events. If they had relied on ticket sales, and there was a shortfall, they would not be able to cover their budget. She said that they have raised their money through grants and local appropriations.

{Tape: 4; Side: A; Approx. Time Counter: 9 - 22.1}

Closing by Sponsor:

REP. LINDEEN said that they will review the amendment language to make sure that it allocates the money between the two events over two years, and that unused money would revert back to the General Fund. She told the Committee that this is an incredible investment; it has a good marketing plan and the \$1 million will have a guaranteed return. She reminded them that she will continue to work on securing a funding source.

HEARING ON HB 482

Opening Statement by Sponsor:

REP. MONICA LINDEEN, HD 43, Huntley Project, opened the hearing on **HB 482**, a bill to revise allocation of funds to the coal tax shared account. It would take the current 7.75% of the coal tax

shared account and restore it back to the 8.36% rate. The shared account dollars are allocated to the Library Association, Conservation Districts and the Montana Growth Through Agriculture program.

Proponents' Testimony:

Bob Gilbert, Rosebud County, explained that all counties in Montana shares in the coal tax revenue, but certain counties and cities are affected by the impacts of coal mining. He said that they are concerned about the infrastructure funding provided to these entities through the coal tax shared account, and support raising it from 7.75% back to the 8.36%. As an example, he said that in the 2003 session, \$100,000 was approved to do an engineering study on the Castle Rock Road west of Colstrip; it was approved, but never funded. In the meantime, Rosebud County has spent \$380,000 of their local tax money to make that road usable for the coal industry.

Willie Duffield, Montana Association of Oil, Gas and Coal Counties, said that in 2004-05 the Coal Board had \$1.5 available for impact grants; 19 grants totaling \$1.4 million were awarded. The average grant amount was \$77,000, and the 19 products leveraged over \$13.5 million of state and federal funding. If HB 482 passes, it would put an additional \$137,000 into the impact fund and allow for an additional two more grants and leveraging \$1 million to \$2 million. He said that this would go a long way in helping these communities fix their infrastructure.

{Tape: 4; Side: A; Approx. Time Counter: 22.1 - 29.5; Comments: Rep. Ripley entered hearing.}

Jim Smith, Montana Library Association, said that the coal tax shared account provides a benefit to all the libraries in the state.

Sarah Carlson, Montana Association of Conservation Districts, said that HB 482 brings them back to where they were prior to the 2002 special session.

EXHIBIT(aph46a13)

{Tape: 4; Side: A; Approx. Time Counter: 29.5 - 32.6; Comments: End of Side A, Tape 4}

Mike Wendtland, Montana Conservation District, said that they depend upon the shared coal tax money to help them protect Montana's natural resources.

Jane Holzer, Montana Salinity Control Association, said the money provided for in this bill helps them to protect the soil and

water quality for long-term use by the landowners. She said that the programs have not had an increase in funding for over six years.

Gayla Wortman, Missouri River Conservation Districts Council, said that all 15 of the conservation districts in the Missouri River corridor support HB 482, and all have used this money at one time.

Jill Lorang, Cascade County Conservation District, asked the Committee to support HB 482 because it provides funding for grants to local communities.

{Tape: 4; Side: B; Approx. Time Counter: 0 - 2.6; Comments: Rep. Kaufmann entered hearing}

Larry Van Rinsan, Flathead Conservation District, said that this money is critical to underground projects. He said that conservation districts are very frugal with their money and are very effective in getting things done on the ground.

Gary Amestoy, Richland County Economic Development Council, said that in Richland County they have used all of the programs funded by the coal tax shared account.

Pete Woll, Flathead Conservation District, said that they need this funding to educate the people moving into the Flathead Valley on conservation issues.

Opponents' Testimony: None

Informational Testimony:

Ray Beck, Department of Natural Resources and Conservation, said that his department manages these funds and distributes them to the conservation districts.

Questions from Committee Members and Responses: None

Closing by Sponsor:

REP. LINDEEN said that she knows that she is living this bill in good hands and asked for a "Do Pass."

HEARING ON HB 181**Opening Statement by Sponsor:**

REP. JOHN MUSGROVE, HD 34, Havre, opened the hearing on **HB 181**, a bill to provide actuarially sound funding to the Teachers Retirement System (TRS). The Montana Constitution requires that all public retirement systems be funded on an actuarially sound basis. Without additional funding, the TRS is not currently funded on an actuarially sound basis. HB 181 increases the employer contribution rate 1.2% in 2005, 1.2% in 2007 and .75% in 2009. When the fund returns to a 25-year actuarially sound basis, then the contribution rate will revert back to 7.47%. In addition, the Montana university system's supplemental employer contribution will increase by .56% in 2005 and .56% in 2007. He pointed out that during executive action on this bill, Page 12 Line 7 will need to be amended to change the \$1.650 million to \$1.680 million.

EXHIBIT(aph46a14)

{Tape: 4; Side: B; Approx. Time Counter: 2.6 - 9}

Proponents' Testimony:

David Senn, Teachers Retirement System, said funding for TRS comes from employee and employer contributions, but investment earnings are the biggest source of funding. They have assumed an average investment return of 8% in order to keep the fund actuarially sound. However, due to nationwide accounting fraud and scandal in 2001 and 2002, the market value of their investments have declined. The negative 5.1% return in 2001, when you had assume a positive return of 8%, is an actual negative return of 13.1%. He said that the employer contribution rate will be increased, but when the fund is actuarially sound, this rate will return to the current rate of 7.47%. The employee contribution rate cannot change, according to the Montana Constitution, because it would violate the terms of their employment contract.

{Tape: 4; Side: B; Approx. Time Counter: 9 - 13.1; Comments: Reps. Sesso and Sinrud entered hearing}

He said that they do an actuarial evaluation every two years, and the July 2004 review stated that the unfunded liabilities of the system does not amortize over 30 years and an employer contribution would be necessary. They have proposed implementing that increase incrementally over six years. He reminded the Committee that HB 181 came about from a Legislative Audit Department recommendation.

Tom Bilodeau, Montana Education Association-Montana Federation of Teachers, said that in the early 1990s several active employees and retirees in the teachers' and public employees' retirement systems, worked to bring forth an initiative called the Public Pension Security Amendment. This initiative was approved by 74% of the voters, making the State responsible for providing adequate funding of benefits for current and future employees. He said that the current lawsuit regarding under funding of schools, states that school districts have problems with recruiting and retaining teachers due to inadequate funding levels. HB 181 assures that the funding is there to pay the pension benefits provided for in the TRS.

Opponents' Testimony:

Mary Whittinghill, Montana Taxpayers Association, said that she agrees with the State's statutory responsibility to adequately fund the TRS. But she said that Governor Martz had tried to minimize the cost of this funding to the taxpayer. She said that her association does not believe that Montana has a teacher retention and recruitment problem throughout Montana. Recent openings in the Helena School District resulted in over a few hundred applicants applying for a few openings. Their biggest concern is that there is going to be an increase in permissive mill levies to the local taxpayers. This is going to result in new taxes being imposed on the local taxpayers, and there should be an awareness that this will happen under HB 181. In regard to the statement that the increase cannot be assessed to teachers because it would violate their contract, she said a consideration should be given to assessing an increase to new employees. She pointed to the Committee that HB 181 assumes that there will be an 8% annual investment return, and they are not sure that it will occur. When the fund becomes actuarially sound, she asked if the reduction in funding would occur first for the local taxpayer.

Questions from Committee Members and Responses:

REP. SINRUD asked what the "assumed 4.5% growth" stated in the Fiscal Note means. **David Senn** said the 4.5% growth refers to the growth in teacher salaries. In the Fiscal Note, the Teachers Retirement Board have reduced the assumed market growth from 8% to 7.75% and is based upon what the Board of Investments has been able to do.

REP. SINRUD asked what the market value loss was. **David Senn** said that in 2001 the market value loss was \$271 million, the Board of Investments earnings were \$154 million. In 2002, the market value loss was \$253 million.

REP. WELLS asked where the permissive mill levy increase was in HB 181. **Mary Whittinghill** said that it is on Page 2 of the Fiscal Note, because retirement is a permissively levied mill.

Closing by Sponsor:

REP. MUSGROVE responded to the suggestion that employee contributions of new teachers be increased. He said that idea was researched and found to be so minuscule that it would make no difference over the long run. It also would have affected the ability to attract good teachers.

{Tape: 4; Side: B; Approx. Time Counter: 13.1 - 32.6; Comments: End of Tape 4}

{Tape: 5; Side: A; Approx. Time Counter: 0 - 0.4; Comments: Rep. Jackson entered hearing.}

NOTE: Committee discussed HB 342, which was incorrectly referred to the Appropriations Committee. After conferring with Greg Petesch, Legislative Legal Department, they decided to consult with the bill's sponsor, Rep. Wanzenried, to see what he would like to do.)

{Tape: 5; Side: A; Approx. Time Counter: 0.4 - 5.1; Comments: Rep. Franklin entered hearing}

ADJOURNMENT

Adjournment: 4:35 P.M.

REP. ROSALIE (ROSIE) BUZZAS, Chairman

MARCY MCLEAN, Secretary

RB/mm

Additional Exhibits:

EXHIBIT ([aph46aad0.PDF](#))